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C O N F I D E N T I A L SECTION 01 OF 02 BEIJING 004401

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DEPT PASS USTR FOR KARESH, ROSENBERG, CELICO, STRATFORD  
LABOR FOR ILAB-LI, SCHOEPPLE AND OSEC-OWEN, HUI  
TREASURY FOR OASIA/ISA-CUSHMAN  
USDOC FOR 4420/ITA/MAC/MCQUEEN AND DAS KASOFF  
GENEVA FOR CHAMBERLIN

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SUBJECT: JUNE 12-13 DISCUSSIONS OF CHINA'S PROPOSED CHARITY  
LAW

REF: BEIJING 3884

Classified By: Econmincouns Robert Luke, reason 1.4(d/b)

¶1. (C) Summary: Reftel provided the text of a draft of China's proposed Charity Law, which would, for the first time, create a legal means to register non-profit organizations in China. A participant in a June 12-13 conference on the Charity Law, sponsored by China's Ministry of Civil Affairs (MOCA) said provisions of the draft law presented by the Chinese side still suggest a law that puts more emphasis on controlling civil society than nurturing it.

Foreign experts at the conference reportedly argued for giving civil society space to flourish, and advised the Chinese to broaden the definition of what constitutes charitable activity, and liberalize provisions on fund raising and tax benefits for donors. Several experts discussed the merits of a truly independent regulatory body for charitable organizations. Embassy continues to receive conflicting information about when the law will be finalized.

Clearly there is much work to be done, and the Government does not seem inclined to conduct this work in the open. Embassy will provide conference materials and participant lists to DRL and EAP/CM separately. End summary.

¶2. (C) Reftel provided the text of a draft of China's proposed Charity Law, which would, for the first time, create a legal means to register non-profit organizations in China. On June 20, Laboff met with Kelly Lau from Nike Corporation (protect), who observed a June 12-13 conference for international experts on the proposed Charity Law, hosted by China's Ministry of Civil Affairs (MOCA) in conjunction with the University of British Columbia. Conference presenters included government and non-government experts on charity regulation from Canada, Germany, the Philippines, Singapore, Hong Kong, the United Kingdom, and the United States. Chinese participants included delegates from MOCA, the State Council Legislative Affairs Office, the Communist Youth League, and several Government-affiliated charities, as well as several Chinese academics from leading law schools. No independent charities or NGOs participated. The draft law presented in reftel was not discussed at the conference. Instead, MOCA circulated a document entitled, "Relevant Issues on Drafting the Charity Law of the PRC," containing 24 draft articles, including competing versions of some articles, and invited the advice and comments of all participants. According to Lau, very few Chinese participants spoke at all. (Embassy will provide a copy of

this document along with a conference agenda and list of participants to DRL and EAP/CM.)

13. (C) Lau told Laboff that the MOCA discussion document suggested a Charity Law that emphasizes controlling rather than nurturing civil society. The Chinese side appeared especially concerned about controlling fraud, she said. According to Lau, Western presenters aggressively argued for giving civil society space to flourish, and advised the Chinese to broaden the definition of what constitutes charitable activity, and liberalize provisions on fund raising and tax benefits for donors. Several experts discussed the merits of independent regulatory bodies for charitable organizations. On the definition of charitable activity, Lau said some experts were concerned that such activities as advocacy, rights education or capacity building would fall outside the scope of charitable activities as defined under current drafts of the law. Lau noted that it would be hard for Nike, for example, to find an NGO authorized under such a law that could carry out workers' rights education. On fund-raising, Lau noted that the provisions under discussion limited the means by which charities can raise money, leaving no room, for example, for a fee for service.<sup>8</sup> Some experts advised China to be more specific in the Law about tax benefits for donors. Lau said some experts were also concerned about draft provisions requiring charitable organizations to register their volunteers and report their names to the government.

14. (C) Lau said that one MOCA official indicated privately that MOCA hopes to pass the law in the Spring 2008 National People's Congress session. The Chinese Government will not likely make it public at any point, nor is it likely to change much from its current form, he told her. However,

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MOCA Director General Wang Zhenyao separately told Embassy that the current draft Charity Law is "really bad," and "won't be coming out any time soon." According to Wang, Chinese participants found the June 12-13 conference useful, and realize that the draft Charity Law has a long way to go.

15. (C) Comment: The silence of Chinese participants at the conference, and the sensitivity with which MOCA is handling draft legal provisions suggest that the Government is so far not inclined to conduct its work on the Charity Law openly or transparently.

RANDT